

## REMARKS

Claims 1-26 are pending in the application. Claims 1, 9 and 18 are independent. Claims 1-26 stand rejected. Claims 2, 10, 19 and 21 are cancelled herewith.

### *Interview Summary*

Applicants' representative thanks the examiner for the courtesy extended in the telephonic interview of January 10, 2008. The substance of the interview is incorporated into the below remarks.

### *Claim Objections*

Claims 9 and 18 stand objected to because of minor informalities. In particular, the examiner has indicated that the phrase in lines 4- 6 should read as - ...wherein said runtime [[instructions]] program performs the translation between said application [[instructions]] program and [[said]] a selected driver- - as previously recited in lines 3-4.

Applicant has corrected the claim language as suggested by the examiner..

### *Claim Rejections - 35 USC § 103*

Claims 1, 6, 9-10, 15-16, 18-19, and 24-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Devins (art of record, US Patent No. 6,615,167) in view of US Patent No. 6,594,761 to Chow et al. (art made of record, hereinafter "Chow").

Regarding claim 1, The examiner maintains that Devins discloses:

*a plurality of runtime instructions, said instructions readable by a compiler* (e.g., FIG. 6, API 500, col.5: 28-44, col.6: 1-31; LLDD 202, col.3: 55-62, col.4: 22-45),

*wherein said runtime instructions performs the translation between said application instructions and said selected driver* (e.g., FIG. 2A, col.3: 55 - col.4: 12; FIG. 5, col.5: 29-45; FIG. 6, 201+202+601+602 -\* 500 -\* 400).

Devins discloses application instructions and runtime instructions as a combined set of instructions, but not explicitly disclose said instructions as intermediate language.

Action p. 3. Applicants respectfully disagree. Claim 1 recites a plurality of runtime instructions that are combined with a set of application instructions so as to form a single set of instructions that can then be compiled on a target system. This allows the runtime instructions to be specifically tailored for a target system and designed to operate specifically with a particular application program. The result is an intermediate language system that executes more quickly while retaining the flexibility offered by an intermediate language.

Additionally, Applicants have amended the claim to indicate that a portion of the driver is also in an intermediate language such that the application instructions, the runtime instructions and the at least a portion of the driver instructions are compiled into a set of instructions on a target system.

For at least the foregoing reasons, claim 1 patentably defines over over Devins in view of Chow et al. Inasmuch as claims 3-8 depend from independent claim 1 and thereby incorporate its limitations, Applicants submit that they also patentably define over Devins in view of Chow. Reconsideration is respectfully requested.

Regarding independent claim 9, the examiner has provided no additional rational over the rejection of claim 1. Accordingly, Applicants submit that the above analysis applies to claim 9 as well. That is, claim 9 patentably defines over Devins in view of Chow for at least the reasons set for the above with respect to claim 1. Reconsideration of the rejection of claim 9 is requested.

Inasmuch as claims 15 and 16 depend from claim 1, they also patentably define over Devins in view of Chow for at least the same reasons.

Regarding independent claim 18, the examiner has provided no additional rational over the rejection of claim 1. Accordingly, Applicants submit that the above analysis applies to claim 18 as well. That is, claim 18 patentably defines over Devins in view of Chow for at least the reasons set for the above with respect to claim 1. Reconsideration of the rejection of claim 18 is requested.

Inasmuch as claims 24-25 depend from claim 1, they also patentably define over Devins in view of Chow for at least the same reasons.

Claims 3-5 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Devins, Chow, APA, and further in view of Schmit (art of record, US Patent No. 6,148,438).

Applicants respectfully disagree. Inasmuch as claims 3-5 and 7 depend from claim 1, they also patenably define over the art of record at least for the reasons set forth above with respect to claim 1. Reconsideration is respectfully requested.

Claims 11-14 and 20-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Devins, Chow, and further in view of Schmit (art of record, US Patent No. 6,148,438).

Applicants respectfully disagree. Inasmuch as claims 12-14 and 20-23 depend from claims 9 and 18, respectively, they also patenably define over the art of record at least for the reasons set forth above with respect to their respective base claims.

In addition, claim 11 and 12 recite wherein the driver program comprises a kernel mode portion in an executable form and a user mode portion provided in the intermediate language form. None of the cited reference disclose a portion of a driver in executable form and a portion in intermediate language form. Reconsideration is respectfully requested.

Claims 1, 9, and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Devins in view of Sato (art of record, "Fast Compiler Re-Targeting to Different Platforms by Translating at Intermediate Code Level" to Sato, IDS document filed January 4, 2002).

Regarding claim 1, The examiner maintains that Devins discloses:

a plurality of application instructions, said instructions readable by a compiler (e.g., Test Application 201, col.5: 62 - col.6: 4; FIG. 2B-C, col.4:13-45);

a plurality of runtime instructions, said instructions readable by a compiler (e.g., FIG. 6, API 500, col.5: 28-44, col.6: 1-31; LLDD 202, col.3: 55-62, col.4: 22-45),

wherein said runtime instructions performs the translation between said application instructions and said selected driver (e.g., FIG. 2A, col.3: 55 - col.4: 12; FIG. 5, col.5: 29-45; FIG. 6, 201+202+601+602 -\* 500 -> 400).

Action p. 8. Applicants respectfully disagree. As stated above, claim 1 recites a plurality of runtime instructions that are combined with a set of application instructions so as to form a single set of instructions that can then be compiled on a target system. This allows the runtime instructions to be specifically tailored for a target system and designed to operate specifically with a particular application program. The result is an intermediate language system that executes more quickly while retaining the flexibility offered by an intermediate language.

Additionally, Applicants have amended the claim to indicate that a portion of the driver is also in an intermediate language such that the application instructions, the runtime instructions and the at least a portion of the driver instructions are compiled into a set of instructions on a target system.

For at least the foregoing reasons, claim 1 patentably defines over Devins in view of Sato.

Regarding independent claim 9, the examiner has provided no additional rational over the rejection of claim 1. Accordingly, Applicants submit that the above analysis applies to claim 9 as well. That is, claim 9 patentably defines over Devins in view of Sato for at least the reasons set for the above with respect to claim 1. Reconsideration of the rejection of claim 9 is requested.

Regarding independent claim 18, the examiner has provided no additional rational over the rejection of claim 1. Accordingly, Applicants submit that the above analysis applies to claim 18 as well. That is, claim 18 patentably defines over Devins in view of Sato for at least the reasons set for the above with respect to claim 1. Reconsideration of the rejection of claim 18 is requested.

**DOCKET NO.:** MSFT-0740/177740.01  
**Application No.:** 10/039,035  
**Office Action Dated:** November 6, 2007

**PATENT  
REPLY FILED UNDER EXPEDITED  
PROCEDURE PURSUANT TO  
37 CFR § 1.116**

### **CONCLUSION**

In the view of the foregoing amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the application for any reason, the Examiner is encouraged to contact Applicants' representative.

Date: May 5, 2008

/Michael J. Swope/  
Michael J. Swope  
Registration No. 38,041

Woodcock Washburn LLP  
Cira Centre  
2929 Arch Street, 12th Floor  
Philadelphia, PA 19104-2891  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439